

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Alhambra Environmental  
Services, Inc.  
A California Corporation  
Mr. James Garland  
5161 Sobrante Ave.  
El Sobrante, California  
94803  
ID No. CA 0000322453

Respondents.

Docket HWCA 20040471

CONSENT ORDER

Health and Safety Code  
Section 25187

The State Department of Toxic Substances Control (Department) and Alhambra Environmental Services, Inc. and Mr. James Garland (Respondents) enter into this Consent Order (Order) and agree as follows:

1. Respondents transport hazardous waste and the following as a business address: 5161 Sobrante Avenue, El Sobrante, California 94803(Site).

2. The Department inspected the Site on February 8, 2004.

3. The Department alleges the following violations:  
Health and Safety Code, section 25163, in that on or about July 29, 2003 and September 29, 2003, Respondents transported hazardous waste without a valid registration issued by the Department.

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

5. Jurisdiction exists pursuant to Health and Safety Code, section 25187.

6. Respondents waive any right to a hearing in this matter.

7. This Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

#### SCHEDULE FOR COMPLIANCE

8.1. As of the effective date of this Order Respondents shall comply with the following:

8.1.1. Respondents shall show proof of transporter registration upon demand from any peace officer or representative of the Department.

8.1.2 Respondents shall accept no hazardous waste for transportation without a valid transporter registration from the Department.

8.2. Submittals: All submittals from Respondents pursuant to this Order shall be sent to:

Mr. Steve Sterling, Branch Chief  
Task Force Support and Special investigation Branch  
Department of Toxic Substances Control  
8800 California Center Drive  
Sacramento, California 95826

8.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondents in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice,

guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondents shall be construed to relieve Respondents of their obligation to obtain such formal approvals as may be required.

8.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.

8.5. Compliance with Applicable Laws: Respondents shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

8.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondents to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

8.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondents, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

8.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondents in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondents shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

8.9. Sampling, Data, and Document Availability: Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents's behalf in any way pertaining to work

undertaken pursuant to this Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

8.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties specified in paragraph 10.3, in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or its agents in carrying out activities pursuant to this Order.

8.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondents pursuant to this Order are incorporated in this Order upon approval by the Department.

8.12. Extension Requests: If Respondents are unable to perform any activity or submit any document within the time required under this Consent Order, Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

8.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### PAYMENTS

9. Within 30 days of the effective date of this Order, Respondents shall pay the Department a total of \$1,000.00, of which \$500.00 is a penalty and \$500.00 is reimbursement of the Department's costs. Respondents' check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st Floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To:

Steve Sterling, Branch Chief  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
8800 California Center Drive  
Sacramento, California 95826

Vivian Murai  
Office of Legal Counsel and Investigation  
Department of Toxic Substances Control  
1001 I Street, 23rd Floor

P. O. Box 806  
Sacramento, California 95812-0806

If Respondents fail to make payment as provided above, Respondents agree to pay interest at the rate established pursuant to **Health and Safety Code** section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

10.1. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

10.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondents to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

10.3. Parties Bound: This Order shall apply to and be binding upon Respondents and their officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

10.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

10.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

10.6. Compliance with Waste Discharge Requirements:

Respondents shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated:     [04/12/04]         [original signed by James Garland]      
Alhambra Environmental Services, Inc.  
Mr. James Garland  
Respondents

Dated:     [04/30/04]         [original signed by Rick Robison]      
Mr. Rick Robison  
Supervising Hazardous Substances  
Scientist I  
Task Force Support and Special  
Investigations Branch  
Department of Toxic Substances Control